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BEFORE THE FEDERAL ELECTION COMMISSION

2004 SEP 21 P 2: 36

In the Matter of)

Giordano for U.S. Senate Committee)

BankNorth/Arthur A. Watson & Company, Inc.)

Michael Watts)

MUR 5453

SENSITIVE

GENERAL COUNSEL'S REPORT # 2

I. ACTIONS RECOMMENDED

1. Find reason to believe BankNorth/Arthur A. Watson & Company, Inc. and Michael Watts violated 2 U.S.C. §§ 441b(a) and 441f.
2. Enter into conciliation with BankNorth/Arthur A. Watson & Company, Inc. and Michael Watts prior to a finding of probable cause to believe.
3. Approve the attached Factual and Legal Analyses and conciliation agreements.

II. INTRODUCTION

In our last report to the Commission (First General Counsel's Report, dated May 3, 2004), we informed the Commission about an internally generated matter concerning apparent violations of the Federal Election Campaign Act of 1971, as amended ("the Act"),¹ by the Giordano for U.S. Senate Committee ("the Committee") and others. This Office recommended the Commission make reason-to-believe findings in connection with a prohibited contribution from a national bank, excessive individual contributions from the candidate's family members in connection with the loan's collateral, other excessive individual and prohibited corporate

¹ All of the facts in this matter occurred prior to the effective date of the Bipartisan Campaign Reform Act of 2002 ("BCRA"), Pub. L. 107-155, 116 Stat. 81 (2002). Accordingly, unless specifically noted to the contrary, all citations to the Act herein are as it read prior to the effective date of BCRA and all citations to the Commission's regulations herein are to the 2002 edition of Title 11, Code of Federal Regulations, which was published prior to the Commission's promulgation of any regulations under BCRA.

contributions, failure to provide contributor information for a significant number of contributors, failure to use best efforts to obtain the missing contributor information, and failure to file the 2002 Mid-Year and Year-End Reports. On May 18, 2004, the Commission made reason-to-believe findings against the following respondents:

RESPONDENT	VIOLATION(S)
Giordano for U.S. Senate Committee and its treasurer	2 U.S.C. §§ 441b(a), 441a(f), 432(i), 434(b)(3)(A) ²
James S. Paolino	2 U.S.C. §§ 441b(a) and 441a(f)
Thomas M. Ariola, Jr.	2 U.S.C. §§ 441b(a), 441a(f), and 434(b)(3)(A)
Philip Giordano	2 U.S.C. §§ 441b(a) and 441a(f)
Patriot National Bank	2 U.S.C. § 441b(a)
Dawn Giordano	2 U.S.C. §§ 441a(a)(1)(A) and 441a(a)(3)
Salvatore Trovato	2 U.S.C. §§ 441a(a)(1)(A) and 441a(a)(3)
En-Tech Corporation	2 U.S.C. § 441b(a)
Timothy Longino	2 U.S.C. § 441a(a)(1)(A)
Diabes Brothers, Inc.	2 U.S.C. § 441b(a) ³
Diabes Brother, Inc. II	2 U.S.C. § 441b(a)*
DiBacco Plumbing & Heating, Inc.	2 U.S.C. § 441b(a)*
Northeast Cosmetology, Inc.	2 U.S.C. § 441b(a)*
R.P.L.	2 U.S.C. § 441b(a)*
The Red Lion, Inc.	2 U.S.C. § 441b(a)*

The Commission permitted this Office to engage in formal and informal discovery as necessary to investigate the Committee and the respondents named in the First General Counsel's Report concerning the facts and circumstances surrounding the above-cited violations.

Since the Commission's recent vote, a United States Department of Justice investigation has brought to our attention two additional potential respondents. By letters dated June 7 and

² Additionally, the Commission determined to take no further action against the Committee for failure to file the 2002 Mid-Year Report, and found reason to believe that the Committee and its treasurer violated 2 U.S.C. § 434(a) regarding the 2002 Year-End Report, but determined to take no further action.

³ The Commission determined to send an admonishment letter, and close the file as to this respondent, as well as those respondents whose violations are marked with an asterisk (*).

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1 June 18, 2004, Michael Watts and BankNorth/Arthur A. Watson & Company, Inc. ("the
2 Company"), respectively, submitted *sua sponte* letters, at the prompting of the Department of
3 Justice, describing their involvement in a corporate scheme to reimburse employees'
4 contributions to the Committee during the month of April 2000. This report discusses the *sua*
5 *sponte* submissions, and recommends the Commission find reason to believe Mr. Watts and the
6 Company knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f, and enter into pre-
7 probable cause conciliation with them.

8 **III. FACTUAL AND LEGAL ANALYSIS**

9 **A. *BankNorth/Arthur A. Watson & Company, Inc.***

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13 According to counsel's letter dated June 18, 2004, "[t]he facts of the matter are not in
14 dispute. Our client [BankNorth/Arthur A. Watson & Company, Inc.] is accepting criminal
15 responsibility for these actions. It is our desire that any civil issue arising from events [sic] be
16 resolved simultaneously with the criminal plea agreement."⁶

⁶ Arthur A. Watson & Company, Inc. is the defendant in the parallel criminal proceeding. At some point after the events in this matter occurred, Arthur A. Watson & Company, Inc. was purchased by BankNorth, and is now wholly owned by BankNorth. Since BankNorth is assuming liability for Arthur A. Watson & Company, Inc., this report refers to both entities as "the Company."

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1 The Company is prepared to admit that it knowingly and willfully made contributions to
2 the Committee in violation of 2 U.S.C. § 441b(a) in the total amount of \$8,000 through four of
3 its employees and the employees' spouses from on or about April 18, 2000 to April 28, 2000.⁷
4 By reimbursing its employees and their spouses the total amount of the contributions, disguising
5 the reimbursements as commissions or salaries, the Company also violated 2 U.S.C. § 441f.

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15 Based on the foregoing, this Office recommends the Commission find reason to believe
16 BankNorth/Arthur A. Watson & Company, Inc. knowingly and willfully violated 2 U.S.C.
17 §§ 441b(a) and 441f by using its corporate funds to make contributions in its employees' and
18 employees' spouses' names. This Office further recommends that the Commission enter into pre-
19 probable cause conciliation with BankNorth/Arthur A. Watson & Company, Inc.

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⁷ Mr. Watts' submission indicates that he and four other employees were reimbursed for contributions with the Company's funds, whereas the Company's submission indicates that it made reimbursements to a total of four employees. We plan to ask the Company and Mr. Watts for more information to clarify this point.

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B. Michael Watts

In April of 2000, Mr. Watts, who at the time was Senior Vice-President of Arthur A. Watson & Company, Inc., approached a higher-ranking officer at the Company and four fellow employees about making contributions to the Committee. Mr. Watts was attempting to secure a contract for the Company with the City of Waterbury, and believed that the contributions to the Committee would help secure the contract (Mr. Giordano was Mayor of the City of Waterbury at the time).¹⁰ Not only did he suggest the corporate reimbursement scheme to a higher-ranking officer, but he also helped the Company in carrying out the scheme by collecting the funds for reimbursement. See Watts' *sua sponte* submission, dated June 7, 2004. Mr. Watts and his wife, along with four other employees and their spouses contributed to the campaign.¹¹ He admits that he made the contribution to the Committee in the amount of \$2,000, and that he accepted reimbursement of it from the Company.¹²

Mr. Watts' submission sets forth that a higher-ranking officer at the Company approved the scheme; however, this does not negate the fact that Mr. Watts himself was an officer. At the time in question, Mr. Watts was the Senior Vice-President of the Company. He was third in the chain of command, after the President, and Executive Vice-President. It is unlawful for any officer of a corporation to consent to any corporate expenditure which may be prohibited contributions to candidates or committees. 2 U.S.C. § 441b(a). Moreover, no person may knowingly help or assist any person in making a contribution in the name of another. 11 C.F.R.

¹⁰ We obtained this information from the Department of Justice.

¹¹ According to the submission, Mr. Watts' wife was not aware of the unlawful reimbursement. Therefore, this Office does not recommend pursuing her at this time.

¹²

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1 § 110.4(b)(1)(iii). Further, Mr. Watts admits that he knowingly and willfully violated the law:

2 "Mr. Watts sincerely regrets being involved in this attempt to circumvent federal election laws."

3 *See Watts' sua sponte* submission, dated June 7, 2004.

4 Given his admission that he knowingly and willfully violated the law, taken together
5 with his position as an officer of the Company and his actions, *i.e.*, devising the scheme, and then
6 assisting the Company in carrying out the scheme by collecting the funds for reimbursement, this
7 Office recommends that the Commission find reason to believe Mr. Watts knowingly and
8 willfully violated 2 U.S.C. §§ 441b(a) and 441f. Given Mr. Watts' stated intent to fully
9 cooperate, this Office recommends that the Commission enter into pre-probable cause
10 conciliation with him

11 **IV. DISCUSSION OF CONCILIATION AND CIVIL PENALTIES**

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General Counsel's Report #2

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V. **RECOMMENDATIONS**

1. Find reason to believe that BankNorth/Arthur A. Watson & Company, Inc. knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f.
2. Find reason to believe that Michael Watts knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f.

3. Enter into conciliation with BankNorth/Arthur A. Watson & Company, Inc. prior to a finding of probable cause to believe.
4. Enter into conciliation with Michael Watts prior to a finding of probable cause to believe.
5. Approve the attached Factual and Legal Analyses.
6. Approve the attached Conciliation Agreements.
- 7.
8. Approve the appropriate letters.

Lawrence H. Norton
General Counsel

9/20/04
Date

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Attachments

1. Factual and Legal Analyses
2. Proposed Conciliation Agreements

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